

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Thomas E. & Judy L. Smith )  
Dist. 1, Map 99L, Group C, Control Map 99L, ) Cumberland County  
Parcel 1.01, S.I. 000 )  
Residential Property )  
Tax Year 2007 )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$58,100	\$172,600	\$230,700	\$57,675

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 5, 2007 in Crossville, Tennessee. In attendance at the hearing were Thomas and Judy Smith, the appellants, Cumberland County Property Assessor's representative Deputy Assessor Mary Cox, and Fred Wilson, an appraiser with the Division of Property Assessments.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a 3.87 tract improved with a single family residence and various outbuildings. Subject property is located at 48 Holiday Drive in Crossville, Tennessee.

The taxpayers contended that subject property should be valued at \$179,000. In support of this position, the taxpayers introduced into evidence comparable sales they asserted establish that subject residence has been appraised in excess of its market value. In addition, the taxpayers introduced into evidence their insurance policy, a written estimate and newspaper advertisements concerning the cost to replace the shop building and garage which they argued are significantly overappraised. Moreover, the taxpayers maintained that subject property experiences a diminution in value because it backs up to the water plant and is located near an affordable housing development. Finally, the taxpayers argued that subject land was significantly devalued when the City of Crossville purchased .87 acres for dam construction.

The assessor contended that subject property should remain valued at \$230,700. In support of this position, the assessor introduced an exhibit essentially consisting of an area map, a copy of the property record card and the following statement:



Value on attached garage was changed in the county board of equalization hearing. A field check was made by an equalization board member and member of Assessor staff. Mr. Smith refused to allow them to measure or review the farm shop building and the attached shed. The land went up due to the reappraisal like everyone else from the 2006 tax year. Suggest no change due to refusal to inspect buildings.

Ms. Cox also stated she was unaware that the value of subject dwelling was at issue.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$179,000 as contended by the taxpayers.

Since the taxpayers are appealing from the determination of the Cumberland County Board of Equalization, the burden of proof is on the taxpayers. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that if a taxpayer introduces the minimum evidence necessary to establish a prima facie case, the burden shifts to the assessor to rebut the taxpayer's proof. The administrative judge finds that although the taxpayers' proof in this case could certainly be challenged in certain areas, the evidence was sufficient to establish a prima facie case. Respectfully, the administrative judge finds that the assessor did not introduce any proof to rebut the taxpayers' prima facie case such as comparable sales and/or a cost approach.

The administrative judge would note Mr. Smith actually disputed the assessor's contention that he would not allow an equalization board member and a field appraiser to measure or review the outbuildings. The administrative judge finds it unnecessary to resolve this issue because the assessor could have always filed a motion with the administrative judge to request an order directing the taxpayers to allow his staff to inspect subject property in preparation for the hearing.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$58,100	\$120,900	\$179,000	\$44,750

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

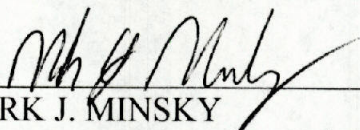


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of September, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Thomas E. & Judy L. Smith  
Ralph Barnwell, Assessor of Property